

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

RODNEY JOHNSON,

Plaintiff,

No.: 2:22-CV-2655

v.

**NEW CSQ, LLC, d/b/a THE VIEW AT
SHELBY FARMS, and BIRGE & HELD
ASSET MANAGEMENT, LLC,**

Jury Demanded

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §1446, Defendants, New CSQ, LLC, d/b/a The View at Shelby Farms, and Birge & Held Asset Management, LLC, hereby file this Notice of Removal removing this case from the Circuit Court of Shelby County, Tennessee, Case No. CT-3769-21, where it is currently pending, to the United States District Court for the Western District of Tennessee. This cause is removable pursuant to 28 U.S.C. §1332, in that the Plaintiffs' claims invoke the Court's diversity jurisdiction and the amount in controversy exceeds the statutorily required \$75,000.00. In support of removal, Defendants respectfully state as follows:

INTRODUCTION

1. Defendant, New CSQ, LLC, is an inactive (as of August 9, 2022) Indiana limited liability company with its principal place of business located at 8902 North Meridian Street, Suite 205, Indianapolis, Indiana 46260-5369.

2. Defendant, Birge & Held Asset Management, LLC, is an Indiana limited liability company with its principal place of business located at 8902 North Meridian Street, Suite 205, Indianapolis, Indiana 46260-5369.

3. Plaintiff, Rodney Johnson, is an adult resident of Tennessee.

4. Plaintiff's Complaint seeks damages in excess of Seventy-Five Thousand Dollars (\$75,000.00). (See Compl., at 3 (seeking \$250,000 in compensatory damages).)

5. The United States District Court for the Western District of Tennessee is the federal judicial district embracing the Circuit Court of Shelby County, Tennessee, where this suit was originally filed. Venue is therefore proper under 28 U.S.C. §§81(b)(1) and 1441(a).

6. Pursuant to 28 U.S.C. §1332, this civil action is removable as it invokes the federal court's diversity jurisdiction. This Court therefore has subject matter jurisdiction over this civil action and removal is proper.

PROCEDURAL HISTORY

7. Plaintiff, Rodney Johnson, instituted this civil action in the Circuit Court of Shelby County, Tennessee, on September 17, 2021, for personal injuries arising out of an incident that occurred on September 24, 2020, at 8056 Country Squire Lane, Cordova, Shelby County, Tennessee, 38018.

8. Plaintiff's action was brought against The View at Shelby Farms, located at 8056 Country Squire Lane, Cordova, Shelby County, Tennessee, 38018, and Birge & Held Asset Management, LLC.

9. Defendant, Birge & Held Asset Management, LLC, was served with a copy of the Complaint on September 23, 2021.

10. On August 26, 2022, Plaintiff substituted The View at Shelby Farms for Defendant, New CSQ, LLC, d/b/a The View at Shelby Farms, an Indiana limited liability company.

11. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be filed with the Shelby County Circuit Court and written notice will be provided to the Plaintiff along with a copy of this pleading.

REMOVAL IS TIMELY FILED UNDER 28 U.S.C. § 1446(b)

12. “A notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.” 28 U.S.C. § 1446.

13. Defendants received a copy of the Agreed Order to Change Defendant’s Name on August 26, 2022, so pursuant to 28 U.S.C. § 1446, this notice of removal is timely filed.

NON-WAIVER OF DEFENSES

14. By removing this action from Shelby County Circuit Court, Defendants do not waive any defenses available to them.

15. By removing this action from Shelby County Circuit Court, Defendants do not admit any of the allegations in the Plaintiff’s Complaint.

WHEREFORE, PREMISES CONSIDERED, Defendants, by and through their counsel, desiring to remove this civil action to the United States District Court for the Western District of Tennessee, being the district and division for the county in which such civil action is pending, pray that the filing of this Notice of Removal, the giving of written notice thereof to Plaintiff, and the filing of a copy of this Notice of Removal with the clerk of the Circuit Court of Shelby County,

Tennessee, shall effect the removal of said civil action to this Honorable Court. Defendants demand a jury to try the issues.

Respectfully submitted,

LEWIS THOMASON, P.C.

s/ William C. Podesta
Christopher L. Vescovo, Esq. (BPR #14516)
William C. Podesta, Esq. (BPR #36303)
Suite 2900, One Commerce Square
40 S. Main Street
Memphis, TN 38103
(901) 525-8721
CVescovo@LewisThomason.com
WPodesta@LewisThomason.com
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of September, 2022, a copy of the foregoing pleading has been delivered to all parties at interest in this cause by placing a copy of same in the United States mail, postage prepaid, in a properly addressed envelope, or by delivering same to each party or party's attorney as follows:

<input type="checkbox"/> Hand	Allen Gressett
<input type="checkbox"/> Mail	Schwed, Adams & McGinley, P.A.
<input type="checkbox"/> Fax	88 Union Avenue
<input type="checkbox"/> Fed X	11 th Floor, Suite 1100
<input checked="" type="checkbox"/> EFS	Memphis, Tennessee 38103
<input checked="" type="checkbox"/> E-mail	
<i>Attorney for Plaintiff</i>	

s/ William C. Podesta
William C. Podesta, Esq. (BPR #36303)

**IN THE CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT, AT MEMPHIS**

RODNEY JOHNSON,

Plaintiff,

v.

**NEW CSQ, LLC, d/b/a THE VIEW AT
SHELBY FARMS, and BIRGE & HELD
ASSET MANAGEMENT, LLC,**

Defendants.

**No. CT-3769-21
Division VIII**

Jury Demanded

NOTICE OF FILING NOTICE OF REMOVAL

PLEASE TAKE NOTICE that the Defendants hereby give notice to the Circuit Court for Shelby County, Tennessee, and to Plaintiff and Plaintiff's counsel that Defendants have filed a Notice of Removal with the United States District Court for the Western District of Tennessee and that this case has been removed to that court. A copy of the Notice of Removal is attached hereto.

Respectfully submitted,

LEWIS THOMASON, P.C.

s/ William C. Podesta
Christopher L. Vescovo, Esq. (BPR #14516)
William C. Podesta, Esq. (BPR #36303)
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	<i>Attorney for Plaintiff</i>

s/ William C. Podesta
William C. Podesta, Esq. (BPR #36303)